SUMMARY OF AMENDMENTS TO THE ARKANSAS DEVELOPMENT FINANCE AUTHORITY'S HOUSING CREDIT PROGRAM 2009 QUALIFIED ALLOCATION PLAN

Pursuant to Section 42 of the Internal Revenue Code, 26 USC § 42, the Arkansas Development Finance Authority (the "Authority") must annually adopt a Qualified Allocation Plan ("QAP") that establishes selection and program criteria for the allocation of federal low-income housing tax credits from the State's annual ceiling. On July 17, 2008 and August 21, 2008, the Board of Directors for the Authority adopted its QAP for 2009. On October 3, 2008, following adoption of the 2009 QAP, President Bush signed into law Public Law 110-343, which included the "Heartland Disaster Tax Relief Act of 2008" (the "HDTRA"). HDTRA provides for additional federal low-income housing tax credits for those counties in Arkansas that received Presidential declarations as disaster areas between the dates of May 20, 2008 and August 1, 2008. According to the FEMA website the following Arkansas counties were declared disaster areas by the President (FEMA-1758-DR) during that time period:

County	**Population**	**Additional Credits for County (multiplied by $8.00)**
Arkansas	19,392	$155,136
Benton	203,107	$1,624,856
Cleburne	25,407	$203,256
Conway	20,740	$165,920
Crittenden	52,103	$416,824
Grant	17,460	$139,680
Lonoke	63,562	$508,496
Mississippi	46,664	$373,312
Phillips	22,035	$176,280
Pulaski	373,911	$2,991,288
Saline	96,212	$769,696
Van Buren	16,507	$132,056
Totals	**957,100**	**$7,656,800**

HDTRA provides that an additional $8 in federal low-income housing tax credits per capita in the affected counties can be allocated for developments in those counties in 2008, 2009 and 2010. The total population in the affected counties is 957,100. The additional tax credits available for allocation to developments in those counties totals $7,656,800 annually for calendar years 2008, 2009, 2010. The credits are "use them or lose them" as they cannot be carried forward to the next year if not allocated. However, we can use these credits in lieu of the "regular" credits for those developments receiving reservations that are located in the affected counties. In addition, the credits can be allocated in the aggregate, meaning they can all be allocated in a single county or multiple counties, and not segregated per county.

P.L. 110-289, Housing and Economic Recovery Act of 2008, H.R. 3221passed into law on July 30, 2008, amended Section 42(d)(5) of the Internal Revenue Code by giving states the authority to increase or "boost," by up to thirty percent (30%), the eligible basis of any development that is not located in a designated qualified census tract or difficult to develop area. This increase will provide additional low-income housing tax credits to a development that would not otherwise qualify for the additional low-income housing tax credits. The Joint Committee on Taxation Report on HR 3221 stated that: "It is also expected that the State allocating agency shall publicly express its reasons for such area designations and the basis for allocating additional credits to a project."

IRS Revenue Procedure 2008-66 announced the federal low-income housing tax credit rate per capita for Arkansas' 2009 state ceiling is increased to $2.30.

The following amends *Section IIIA.* of the 2009 QAP to reflect:

1) the increase in the per capita dollar amount of state housing credit ceiling to $2.30;
2) an increase the maximum amount of credits per development from $450,000 to **$600,000**; however, if:
   a) located in a Designated Low-Income County as defined in 2005-2009 State Consolidated Plan; or
   b) structure(s) are individually listed in the National Register of Historic Places or have been determined to contribute to a Registered Historic District; or
   c) is a qualified Assisted Living development; or
   d) a development with a commitment letter from USDA Rural Development the maximum amount of credits per development increased from $475,000 to **$625,000**; and
3) an increase or "boost" in the eligible basis of any building located in the "declared disaster area" by 30% of such basis.

Original:

A. <u>AMOUNT</u>

The base amount of annual credit authority is currently calculated at $2.20 per capita. This per capita amount is based upon population estimates released each year by the Internal Revenue Service.

The maximum amount of Housing Credits that may be reserved for allocation to one individual development shall be no more than **$450,000** of the annual Housing Credits available in the calendar year. **<u>HOWEVER</u>,** the maximum amount of Housing Credits that may be reserved for allocation to one individual development: 1) that is located in a Designated Low-Income County as defined in the 2005-2009 State Consolidated Plan; 2) whose structure(s) are individually listed in the National Register of Historic Places or have been determined to contribute to a Registered Historic District; 3) that is a qualified Assisted Living development; or 4) a development with a commitment letter from USDA Rural Development, shall be no more than **$475,000** of the annual Housing Credits available in the calendar year.

If allowed by federal law, development owners, including those receiving allocations prior to July 30, 2008, whose new buildings are not federally subsidized and will be placing in service between July 30, 2008 and December 31, 2013, that elected to lock-in the credit percentage at a rate less than nine percent (9%) may request the Authority in writing to rescind such election. If allowed by federal law, the Authority will automatically approve of the rescission; however, owners will receive no federal low-income housing tax credits in excess of the amount previously allocated for the construction or rehabilitation of the development.

Amended:

A. <u>AMOUNT</u>

The base amount of annual credit authority is currently calculated at ~~$2.20~~ <u>$2.30</u> per capita. This per capita amount is based upon population estimates released each year by the Internal Revenue Service.

The maximum amount of Housing Credits that may be reserved for allocation to one individual development shall be no more than ~~$450,000~~ $600,000 of the annual Housing Credits available in the calendar year. **HOWEVER,** the maximum amount of Housing Credits that may be reserved for allocation to one individual development: 1) that is located in a Designated Low-Income County as defined in the 2005-2009 State Consolidated Plan; 2) whose structure(s) are individually listed in the National Register of Historic Places or have been determined to contribute to a Registered Historic District; 3) that is a qualified Assisted Living development; or 4) a development with a commitment letter from USDA Rural Development, shall be no more than ~~$475,000~~$625,000 of the annual Housing Credits available in the calendar year.

The eligible basis of any building in any development located in one of the following 12 counties will be increased by thirty percent (30%) of such basis: 1) Arkansas; 2) Benton; 3) Cleburne; 4) Conway; 5) Crittenden; 6) Grant; 7) Lonoke; 8) Mississippi; 9) Phillips; 10) Pulaski; 11) Saline; and 12) Van Buren.

If allowed by federal law, development owners, including those receiving allocations prior to July 30, 2008, whose new buildings are not federally subsidized and will be placing in service between July 30, 2008 and December 31, 2013, that elected to lock-in the credit percentage at a rate less than nine percent (9%) may request the Authority in writing to rescind such election. If allowed by federal law, the Authority will automatically approve of the rescission; however, owners will receive no federal low-income housing tax credits in excess of the amount previously allocated for the construction or rehabilitation of the development.

The following amends *Section III.B*, p. 2, of the 2009 QAP by inserting a new set-aside in the amount of $7,656,800 which equals $8.00 per capita based upon the populations of the following 12 counties declared disaster areas by Presidential Declaration FEMA 1785-DR: Arkansas; Benton; Cleburne; Conway; Crittenden; Grant; Lonoke; Mississippi; Phillips; Pulaski; Saline; and Van Buren.

Insert at **B. SET-ASIDES**:

5. Heartland Disaster Tax Relief Act of 2008 Set-Aside. Pursuant to Subtitle A of P.L. 110-343, the "Heartland Disaster Tax Relief Act of 2008", a maximum of $7,656,800 of the Housing Credits will be set aside for those developments developed in the following 12 counties: 1) Arkansas; 2) Benton; 3) Cleburne; 4) Conway; 5) Crittenden; 6) Grant; 7) Lonoke; 8) Mississippi; 9) Phillips; 10) Pulaski; 11) Saline; and 12) Van Buren, declared Presidential disaster areas as set forth in FEMA Declaration 1785-DR.

Amend *Section III.B.5*, p 2, of the 2009 QAP as follows:

~~5.~~6. Housing Credits not Awarded through Set-Aside. With the exception of Housing Credits dedicated ~~to qualified non-profit organizations pursuant~~ to: 1) the "Non-Profit Set-Aside" above~~,~~; and 2) the Heartland Disaster Tax Relief Act of 2008 Set-Aside above, Housing Credits not awarded through the "ADFA HOME and Rural Development Set-Aside:, the "Assisted Living Set-Aside", or the "Public Housing Agencies' Set-Aside", will be available for award to any application.

The following amends *Section VII.A.1.*, p. 18, .of the 2009 QAP and awards selection points to those developments located in the 12 counties declared disaster areas by Presidential Declaration FEMA 1785-DR: Arkansas; Benton; Cleburne; Conway; Crittenden; Grant; Lonoke; Mississippi; Phillips; Pulaski; Saline; and Van Buren.

Original:

1.	**Location/RD/HUD.** a. Development is located in the following low-income counties designated in the 2005-2009 State Consolidated Plan: Bradley, Chicot, Crittenden, Desha, Fulton, Jackson, Lafayette, Lee, Monroe, Newton, Phillips, Polk, St. Francis, Searcy, Sharp, Stone, and Woodruff……………………………. (15 points) b. Development is located in a Qualified Census Tract (QCT) or a Difficult to Develop Area (DDA); a copy of QCT map for the development area shall be submitted with the application with complete census tract information submitted at **Tab #24 of the MFHA**. ……………………………..... (10 points) c. Development has a commitment letter for funding or assistance from USDA Rural Development or HUD. <u>USDA-RD</u> (i) USDA transfer funds commitment….. ………………………… (5 points) (ii) USDA new construction or rehabilitation funds commitment…………………………………………………………..(5 points) (iii) USDA rental assistance contract………………..……………..... (5 points)***** (iv) USDA loan guarantee <u>with</u> interest credit buy down..……........(5 points) <u>HUD</u> (i) HUD project based rental assistance contract 11-20 years…..(10 points)***** (ii) HUD project based rental assistance contract 6-10 years……. (7 points)***** (iii) HUD project based rental assistance contract 1-5 years..……. (3 points)***** (iv) HUD loan guarantee <u>with</u> interest reduction payments…..……. (5 points) ***** Points are awarded based upon the percentage of units receiving rental assistance. Rental Assistance Contract must be submitted at Tab #29.	**15**

Amended:

1.	**Location/RD/HUD.** a. Development is located in the following low-income counties designated in the 2005-2009 State Consolidated Plan: Bradley, Chicot, Crittenden, Desha, Fulton, Jackson, Lafayette, Lee, Monroe, Newton, Phillips, Polk, St. Francis, Searcy, Sharp, Stone, and Woodruff……………………………. (15 points) <u>b. Development is located in the following counties declared disaster areas in FEMA Declaration 1785-DR: Arkansas, Benton, Cleburne, Conway, Crittenden, Grant, Lonoke, Mississippi, Phillips, Pulaski, Saline, and Van Buren …………………………………………………….(15 points)</u> ~~b~~<u>c</u>. Development is located in a Qualified Census Tract (QCT) or a Difficult to Develop Area (DDA); a copy of QCT map for the development area shall be submitted with the application with complete census tract information submitted at **Tab #24 of the MFHA**. ……………………………..... (10 points) ~~c~~<u>d</u>. Development has a commitment letter for funding or assistance from USDA Rural Development or HUD. <u>USDA-RD</u> (i) USDA transfer funds commitment….. ………………………… (5 points) (ii) USDA new construction or rehabilitation funds commitment…………………………………………………………..(5 points) (iii) USDA rental assistance contract………………..……………..... (5 points)***** (iv) USDA loan guarantee <u>with</u> interest credit buy down..……........(5 points)	**15**

	HUD (i) HUD project based rental assistance contract 11-20 years…..(10 points)***** (ii) HUD project based rental assistance contract 6-10 years……. (7 points)***** (iii) HUD project based rental assistance contract 1-5 years.…..…. (3 points)***** (iv) HUD loan guarantee with interest reduction payments….…….. (5 points) ***** Points are awarded based upon the percentage of units receiving rental assistance. Rental Assistance Contract must be submitted at Tab #29.	